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November 27, 2019

VIA FEDEX/ECF

Hon. Stewart D. Aaron, U.S.M.J.
United States District Court, Southern District
500 Pear Street, courtroom 11C
New York, New York 10007

Re: Zayo Group, LLC v. MECC Contracting Inc., et al.
Case No.: 18-cv-2459-LTS-SDA
Re: Extension of Discovery Deadline

Hon. Stewart D. Aaron:

Please allow this letter to serve as a request for an extension of the expert discovery deadline in this matter.

Due to unforeseen circumstances, out of the parties' control, Defendants were not able to finish the deposition of Plaintiff's expert on November 22, 2019. After Defendants began the deposition of Plaintiff's expert, the court reporter informed the parties that she had to leave at 3:00 p.m. Once informed, all parties made their respective efforts to retain a new court reporter so that the deposition could be completed that day as planned. Unfortunately, as it was Friday afternoon, and the deposition was being held at the offices of counsel for Co-defendant in White Plains, New York, we were unable to obtain a new reporter for that same day. Defendants therefore were only able to get half way through the deposition before the court reporter had to leave. Counsel made a statement on the record to this effect at the end of the deposition.

Plaintiff's counsel informed Defendants that, due to the upcoming holiday season and the expert's previously made commitments, the next available date that Plaintiff's expert can appear for a continued deposition would be on December 23, 2019. Plaintiff's expert has offered to change his vacation plans to make this date available.

In an effort to comply with this Court's expert discovery deadline of November 30, 2019, Defendants agreed to produce their experts for deposition before completing the deposition of

Plaintiff's expert. In the event that the Court grants the parties' request for another extension of the expert discovery deadline, Defendants would also like to reserve the right to further depose each Defendant's expert in the event that the continued deposition of Plaintiff's expert sheds light on new evidence, theories, or issues not previously raised in Plaintiff's deposition testimony or report.

We understand that this is not the first request made by the parties of this action to extend the expert discovery deadline. Unfortunately, as stated above, this request is a necessity born from unforeseen and unavoidable circumstances. All parties were ready, willing, and able to complete Plaintiff's expert's deposition on November 22, 2019, if not for the court reporter's unwillingness to stay past the 3:00 p.m. deadline.

Respectfully submitted,



/s/
Philip A. Schultze, Esq. (PAS 4761)

ENDORSEMENT: Request GRANTED IN PART. The deadline for expert discovery is extended to December 23, 2019 for the limited purpose of completing the deposition of Plaintiff's expert that was commenced on November 22, 2019. Nevertheless, the parties must comply with the Court's prior Order (ECF No. 73) and advise the Court no later than December 13, 2019, whether any party intends to file a dispositive motion and, if so, setting forth a proposed briefing schedule. Defendants are **not** excused from this obligation even though they have not completed the deposition of Plaintiff's expert. SO ORDERED.

Dated: 11/28/2019